

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Lambda Communications, Inc. ) RM 8708  
  
Emergency Petition for Rulemaking to )  
Apply Expanded Interconnection )  
Obligations to the Puerto Rico )  
Telephone Company )

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FEDERAL COMMUNICATIONS COMMISSION  
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**REPLY**

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Pursuant to the Commission's Public Notice in the above-captioned proceeding,<sup>1</sup> the National Exchange Carrier Association, Inc. (NECA),<sup>2</sup> hereby submits the following Reply to comments filed regarding the Emergency Petition for Rulemaking (Petition) filed by Lambda Communications, Inc. (Lambda).

**I. INTRODUCTION**

Lambda filed an Emergency Petition for Rulemaking with the Commission on September 29, 1995 requesting that the Commission institute a rulemaking proceeding to address Puerto Rico

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<sup>1</sup> Public Notice, RM 8708, Lambda Communications, Inc., Request Amendment of the Commission's Rules to Apply Expanded Interconnection Obligations to the Puerto Rico Telephone Company, Report No. 2107 (Oct. 23, 1995).

<sup>2</sup> NECA is a not-for-profit, membership association, serving over 1400 local exchange carrier (EC) study areas. NECA members include all local exchange carriers in the United States, Puerto Rico, the U.S. Virgin Islands and Micronesia. NECA is responsible, under Subpart G of Part 69 of the Commission's rules, for activities including the preparation of access charge tariffs on behalf of all telephone companies that do not file separate tariffs, collection and distribution of access charge revenues, the administration of the Universal Service and Lifeline Assistance programs, and the administration of the interstate Telecommunications Relay Service fund. See 47 C.F.R. § 69.603 and § 64.604.

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Telephone Company's (PRTC) current exemption from expanded interconnection requirements.<sup>3</sup>

Comments were filed by AT&T Corp. (AT&T), MCI Telecommunications Corporation (MCI), Cellular Communications of Puerto Rico, Inc. and Celpage, Inc. in support of Lambda's Petition.<sup>4</sup> PRTC filed Comments in opposition to Lambda's Petition. PRTC stated that "the undepinnings of the Commission's decision to exempt PRTC from expanded interconnection requirements have not changed in the three years since the Commission examined the issue in its expanded interconnection proceeding."<sup>5</sup> In addition, PRTC asserts that the Commission should not undertake a proceeding to review its current expanded interconnection policy which is specifically applied to PRTC at a time when Congress "is finalizing legislation that will substantially alter the national interconnection landscape."<sup>6</sup> For these reasons, PRTC requests that the Commission deny Lambda's Petition. NECA supports PRTC's arguments.

## II. BACKGROUND

The Commission ordered Tier 1 exchange carriers (ECs) to offer expanded interconnection

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<sup>3</sup> Section 64.1401 of the Commission's rules, 47 C.F.R. § 64.1401, requires that all Tier 1 ECs, that are not NECA interstate tariff participants, offer expanded interconnection for both interstate special access services and interstate switched transport services to other common carriers and exempts PRTC, as a pooling Tier 1 EC, from these requirements.

<sup>4</sup> AT&T at 4, MCI at 1-2, Celpage, Inc. at 1. See also Cellular Communications of Puerto Rico at 2.

<sup>5</sup> PRTC at 3. PRTC states that it is continuing to significantly improve Puerto Rico's historically low telephone penetration so that the island's citizens can have the same level of service that is available in the mainland United States. According to PRTC, responding to expanded interconnection requests will require PRTC to direct its efforts to urban high volume customers and will compromise its efforts to improve service on the island. Id. PRTC reiterated the positions it maintained in its 1991 comments on the Commission's expanded interconnection proposals. Id. at 7 citing PRTC Comments at 2-4 (filed August 6, 1991).

<sup>6</sup> PRTC at 3.

for both interstate special and switched access to all interested parties.<sup>7</sup> The Commission limited its requirement for expanded interconnection to non-pooling Tier 1 ECs and therefore, exempted PRTC from the expanded interconnection requirement for both special access and switched transport services, so long as PRTC continued its NECA tariff participation.<sup>8</sup> The Commission was not convinced that it would be beneficial to require a NECA pool member to provide expanded interconnection.<sup>9</sup> The Commission reasoned that limiting the requirement to non-NECA Tier 1 ECs would ensure the availability of expanded interconnection in most urban and suburban areas -- areas "where demand is likely to be greatest."<sup>10</sup> The Commission further stated that requiring a NECA pool member to provide expanded interconnection "might cause that member's contribution to the pool to decrease, put upward pressure on the pool's access rates, reward less efficient CAPs, and cause the pool carriers' ratepayers to bear the burden of stranded plant."<sup>11</sup> In its Special Access Order, the Commission stated that it "may revisit this decision to exclude NECA pool members after [it had the] opportunity to observe the effect on expanded interconnection on other LECs."<sup>12</sup> The

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<sup>7</sup> See Expanded Interconnection with Local Exchange Company Facilities, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd 7369 (1992) (Special Access Order); Expanded Interconnection with Local Exchange Company Facilities, Second Report and Order and Third Notice of Proposed Rulemaking, 8 FCC Rcd 7374 (1993) (Switched Access Order). See also 47 C.F.R. § 64.1401.

<sup>8</sup> See Special Access Order, 7 FCC Rcd at 7398; Switched Access Order, 8 FCC Rcd at 7399.

<sup>9</sup> Special Access Order, 7 FCC Rcd at 7398.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id.

Commission reiterated this position in its Switched Access Order in 1993 stating that it believed that it "should gain experience with expanded interconnection in Tier 1 service areas served by non-NECA members before considering the extension of this requirement."<sup>13</sup>

### III. DISCUSSION

NECA supports PRTC's argument that the same factors underlying the Commission's decision to exempt PRTC in 1992 and 1993 are still pertinent today and a rulemaking proceeding should not be instituted at this time. As previously discussed, the Commission stated in both its Special Access and Switched Access Orders that it wanted to examine the impact on the Tier 1 ECs involved before instituting any requirements for expanded interconnection to other ECs. The Commission has not been able to adequately study the impact on the Tier 1 ECs. Issues have arisen relating to the validity of the existing interconnection tariffs and other expanded interconnection requirements imposed on Tier 1 ECs that still need to be addressed.<sup>14</sup> The Common Carrier Bureau

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<sup>13</sup> Switched Access Order, 8 FCC Rcd at 7400.

<sup>14</sup> In 1994, the Common Carrier Bureau (CCB) adopted virtual collocation as the basic architecture for providing expanded interconnection services and required Tier 1 ECs, other than NECA pool participants, to provide expanded interconnection for special access and switched access transport through generally available virtual collocation arrangements. See Expanded Interconnection with Local Telephone Facilities, CC Docket No. 91-141, Memorandum Opinion and Order, 9 FCC Rcd 5154 (1994). On December 9, 1994, the CCB released the Virtual Collocation Tariff Suspension Order which partially suspended the ECs' virtual collocation tariffs, initiated an investigation into the lawfulness of these tariffs, imposed an accounting order, rejected patently unlawful terms and conditions, and ordered other tariff revisions. In this Order, the CCB also addressed certain rate structure issues. See Ameritech Operating Companies, et. al., CC Docket No. 94-97, Order, 10 FCC Rcd 1960 (1994) (Virtual Collocation Tariff Suspension Order).

(CCB) has addressed some, but not all, of these tariff issues.<sup>15</sup> Recently, the CCB has issued another Order designating issues for investigation regarding expanded interconnection.<sup>16</sup> These issues include whether direct cost components of virtual collocation rates are justified, whether the rate structures established in virtual collocation tariffs are justified and the reasonableness of the terms and conditions in virtual collocation tariffs.<sup>17</sup> Requiring additional ECs, such as PRTC, to offer expanded interconnection at this time would merely add to the current unresolved matters.<sup>18</sup>

NECA also supports PRTC's argument that a PRTC-specific rulemaking proceeding should not be instituted on the threshold of the implementation of a new national regulatory plan. The telecommunications industry is in a state of flux. As noted by PRTC (at 9-11), legislation changing

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<sup>15</sup> On February 28, 1995, the CCB released an order which designated two key rate level issues in the first phase of the Bureau's investigation of the interim and permanent virtual collocation tariffs. Specifically, the Bureau designated for investigation: 1) whether overhead loadings established in ECs' virtual collocation tariffs are justified; and 2) whether maintenance-related charges in an individual EC's tariff are justified. See Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport, CC Docket No. 94-97, Phase 1, Order Designating Issues for Investigation, 10 FCC Rcd 3927 (1995) (Phase I Designation Order).

<sup>16</sup> On September 19, 1995, the CCB released another order in CC Docket No. 94-97 to address issues regarding the direct cost components of the virtual collocation rates and ECs rate structures and terms and conditions for virtual collocation service. See Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport, Order Designating Issues for Investigation, CC Docket No. 94-97, Phase II (released September 19, 1995).

<sup>17</sup> Id.

<sup>18</sup> MCI (at 2 and 3) requested if a rulemaking proceeding is instituted that the Commission broaden the scope of the proceeding to consider the issue of allowing new entrants to interconnect to all ECs, irrespective of an EC's size and geographic location, upon a reasonable request. In light of the fact that a large number of issues remain unresolved with respect to expanded interconnection, it is not beneficial at this time to address MCI's request.

various aspects of the industry is pending in Congress.<sup>19</sup> In addition, the Commission is moving forward to address numerous issues regarding access charge reform.<sup>20</sup> In light of the rapidly changing telecommunications industry, this is not the time to initiate a company-specific (*i.e.*, PRTC) proceeding.

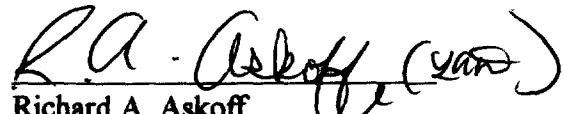
In conclusion, NECA supports PRTC's position that a rulemaking proceeding regarding Lambda's request should not be initiated at this time.

Respectfully submitted,

NATIONAL EXCHANGE CARRIER  
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December 8, 1995

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<sup>19</sup> See S. 652, 104th Congress, 1st Session (1995) and H.R.1555, 104th Congress, 1st Session (1995). Both bills are pending in Congress. Further committee action is expected to be taken in the near future. Generally, S. 652 and H.R. 1555 institute broad interconnection requirements for ECs and detail standards for interconnection agreements.

<sup>20</sup> The Commission plans to address access charge reform, by instituting a rulemaking proceeding, in the early part of 1996. See "Chairman Hundt Bolsters Call for Access Charge Reform," Telecommunications Reports Daily, December 5, 1995.

# **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Reply were served this 8th day of December 1995, by mailing copies thereof by United States Mail, first class postage paid, or by hand delivery, to the persons listed below.

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